Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

No.

In The

Supreme Court of the United States

EVE ANNA CLARK

Petitioner

v.

ERIC V. TILLEY, SHERIFF;
PERQUIMANS COUNTY;
STATE OF NORTH CAROLINA;
UNITED STATES OF AMERICA,

Respondents

On Petition For Writ Of Certiorari
To The General District Court of Justice,
Perquimans County Division,
For The State of North Carolina

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

QUESTION 1: **[a]** Pursuant to North Carolina General Statutes, Article 52A § 14-404(b), is the limiting of state appeal of handgun purchase permit denial to one hearing, thereby exhausting all state remedy, a violation of the due process clause and civilly protected rights of the petitioner, also **[b]** pursuant to North Carolina General Statutes, Article 52A § 14-404(b), has the petitioner's right of trial by jury and/or right of appeal to the highest state court and/or right of counsel been unconstitutionally denied, upon its face or in its application to the petitioner?

QUESTION 2: In whole or in part, does North Carolina General Statutes, Article 52A § 14-402 through 14-405 obligate an unconstitutional licensing law, upon its face and/or in its application, to the petitioner, when requiring a permit, for a constitutionally protected act, that may be withheld or granted at the option of one individual?

QUESTION 3: Has the state of North Carolina, in applying North Carolina General Statutes, Article 52A § 14-402 through 14-405 to the petitioner, violated U.S. civil rights of the petitioner?

QUESTION 4: Does one or more of the respondents' policies and/or application of same to the petitioner addressed in this case violate the supremacy clause of the U.S. Constitution?

QUESTION 5: Does one or more of the respondents' policies and/or application of same to the petitioner addressed in this case violate the full faith and fairness clause of the U.S. Constitution?

QUESTION 6: Does the Second Amendment confer a personal right to "keep and bear arms," to the petitioner, and if so does it extend to a right of lawful purchase of lawful guns, inclusive of lawful handguns, within petitioner's resident state of North Carolina?

QUESTION 7: Is not the federal instant background check fully in place and adequate, for all states equally to accurately evaluate petitioner's legal rights to purchase guns, inclusive of lawful handguns, rather than the hearsay and untried facts and witnesses used by the local sheriff as indicated in the present case?

QUESTION 8: Has the respondent U.S. Government's failure to standardize, to all states of the union, commerce of guns equally in any way been responsible for petitioner's inability to legally purchase a handgun in her resident state of North Carolina?

QUESTION 9: Is U.S.C.S. 18:922(s)(7) also (7)(B) also (t)(6) also (6)(B) constitutional upon its face and/or in its application to the petitioner in the present case and if so does this same title's sections grant absolute immunity from prosecution to the respondent sheriff without exception and is such immunity constitutional?

QUESTION 10: Has the respondent Sheriff Tilley's conduct in denying petitioner a permit to purchase a lawful handgun violated petitioner's civil rights?

QUESTION 11: As the county sheriff's employer does the respondent Perquimans County stand responsible for violating petitioner's civil right de facto or otherwise?

QUESTION 12: **[a]** Is the respondent Perquimans County's "GUN PERMIT REQUEST" unconstitutional upon its face and/or in its application to the petitioner, also **[b]** does this "GUN PERMIT REQUEST" constitute an unconstitutional licensing law that can grant or deny a constitutionally protected right of the petitioner?

PARTIES TO THE PROCEEDING

Eve Anna Clark, Petitioner

Also

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TABLE OF CONTENTS

Page

Questions Presented for Review .....i - iii

Parties to the Proceeding.....iv

Table of Contents.....v -vi

Table of Authorities.....vii - viii

Citations of Opinions and Orders xi

Basis for Jurisdiction in This Court.....x

Constitutional Provisions, Treaties, Statutes,
Ordinances, and Regulations Involved in the Case.....xi - xii

Statement of the Case.....xiii

Argument: Text of the Petition.....1- 17

Page

APPENDIX.....I - XXXIV

Chief District Judge ORDER.....II - VI

Notice of Appeal to NC Court of Appeals...VII - VIII

Appeal Response: Admin, Ofc. of Courts.....IX - X

Appeal Response: Superior Court Clerk.....XI - XII

Notice of Appeal to Chief District Judge...XIII - XV

Gun Permit Request (Side One).....XVI - XVII

Gun Permit Request (Side Two).....XVIII-XX

Letter of Denial.....XXI

Constitutional References.....XXII - XXV

U.S.C.S. 18:922 (s)(7) also (7)(B).....XXVI

U.S.C.S. 18:922 (t)(6) also (6)(B).....XXVI

U.S.C.S. 28:1257(a).....XXVII

U.S.C.S. 42:1983.....XXVII

N.C.G.S. 14-402 through 405.....XXVIII - XXXIV

TABLE OF AUTHORITIES

Page

CASES

Jay Printz, Sheriff/Coroner, Ravalli County, Montana, Petitioner 95-1478 v. United States Richard Mack, Petitioner 95-1503 on writs of certiorari to the United States Court of Appeals for the Ninth Circuit, June 27, 1997.....5, 6, 7

CONSTITUTIONAL PROVISIONS

U.S. Constitution, Amendment II.....1, 2, 5, 6, 7, 8

U.S. Constitution, Amendment XIV.....1

U.S. Constitution, Article I, Section 8, (Commerce Clause).....17

U.S. Constitution, Article IV, Sections 1 and 2 (Full Faith and Credit Clause).....8

U.S. Constitution, Article VI (Supremacy Clause).....7

STATUTES

N.C.G.S. Article 52A § 14-404-405.....1, 2, 4, 15

U.S.C.S. 28:1257(a).....1, 5

U.S.C.S. 18:922.....13, 14, 15

Page

RULES

U.S. Supreme Court Rule 10(c) 1

OTHER AUTHORITIES

Letter of Denial to Eve Anna Clark
from Perquimans County Sheriff's Office,
November 16, 2005.....3, 4, 9

Petition for Appeal from Sheriff's Denial,
December 7, 2005.....3, 4

Gun Permit Request.....4

ORDER, Judge Grafton G. Beaman,
Chief District Court, Perquimans County, NC
Rendered on May 4, filed May 8, 2006.....4, 12, 13

CITIATIONS OF OPINIONS AND ORDERS

ORDER: The General District Court of Justice, Perquimans County Division, for the State of North Carolina, heard upon appeal pursuant to North Carolina General Statutes, Article 52A § 14-404(b) may be viewed on PAGES II - VI of the APPENDIX to this writ.

BASIS FOR JURISDICTION IN THIS COURT

State district court having original and final jurisdiction as to appeal from the denial of petitioner's request for a handgun purchase permit, the merits of the claim have relied upon North Carolina General Statutes, Article 52A § 14-404(b) due to court's ORDER upholding county sheriff's denial of petitioner's handgun purchase permit. This ORDER is the ***final decision*** and by this same statute is ***not subject to further appeal***. Though challenged thoroughly by the petitioner, the unappealable factor in this statute NCGS 14-404(b) was affirmed in writing to the petitioner by North Carolina state court officials. *(Find a copy of these documents in the Appendix of this writ on PAGE VII - XII)*

The ORDER was entered on May 4, 2006 by Chief District Court Justice Grafton G. Beaman and filed May 8, 2006 in the General District Court of Justice, Perquimans County Division, for the State of North Carolina same having original jurisdiction pursuant to North Carolina General Statutes, Article 52A § 14-404(b).

The statutory provision believed to confer on this Court's jurisdiction to review on a Writ of Certiorari the judgment or ORDER in question is that of constitutional questions and jurisdiction pursuant to U.S. Constitution Article III, Article VI "Supremacy Clause" and U.S.C.S. 28:1257(a).

CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES, ORDINANCES, AND REGULATIONS INVOLVED IN THE CASE

U.S. Constitution, First Amendment
(redress of grievances)

U.S. Constitution, Second Amendment
(the right of the people to keep and bear arms)

U.S. Constitution, Fourth Amendment
(right of the people to be secure)

U.S. Constitution, Fifth Amendment
(due process of law)

U.S. Constitution, Sixth Amendment
(right of trial against criminal accusation)

U.S. Constitution, Seventh Amendment
(right of trial by jury where amount exceeds $20)

U.S. Constitution, Eighth Amendment
(unusual punishment inflicted under color)

U.S. Constitution, Fourteenth Amendment, Section 1
(personal civil rights)

U.S. Constitution, Article I, Section 8,
(Commerce Clause)

U.S. Constitution, Article IV, Sections 1 and 2
(Full Faith and Credit Clause)

U.S. Constitution, Article VI
(Supremacy Clause)

U.S.C.S. 18:922(s)(7) also (7)(B) also (t)(6) also (6)(B)

U.S.C.S. 28:1257(a)
(state courts; certiorari)

U.S.C.S. 42:1983
(rights against discrimination)

North Carolina General Statutes,
Article 52A § 14-402 through 14-405

> § 14-402. Sale of certain weapons without permit forbidden.
> § 14-403. Permit issued by sheriff; form of permit; expiration of permit.
> § 14-404. Issuance or refusal of permit; appeal from refusal; grounds for refusal; sheriff's fee.
> § 14-405. Record of permits kept by sheriff.

"GUN PERMIT REQUEST" submitted to petitioner by the Perquimans County Sheriff Department in her application for a permit to purchase a handgun. *(A copy of which can be found on PAGE XVI - XX of the APPENDIX to this Petition for Writ of Certiorari.)*

STATEMENT OF THE CASE

The underlying claims in this case arise from petitioner's obligation by sections of North Carolina State General Statutes, Article 52A and the denial by the county sheriff of her application for a permit to purchase a handgun.

The events giving rise to this case are petitioner's state appeal of that denial which found for the sheriff by district judge thereby exhaustir ; all state remedies pursuant to North Carolina General Statutes, Article 52A § 14-404(b). Therefore petitioner exercises this Petition for Writ of Certiorari pursuant to USCS 28:1257(a):

U.S.C.S. 28:1257(a)

> Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

INTRODUCTION

The present case is narrowly drawn to constitutional questions that can only be answered by this high Court, the Supreme Court of the United States, being the Court of last resort. State district court having original and final jurisdiction as to appeal for the denial of petitioner's request for a handgun purchase permit and the merits of the claim have relied upon [North Carolina General Statutes, Article 52A § 14-404(b)] in its ORDER upholding county sheriff's denial of petitioner's handgun purchase permit, thus thereby exhausting all petitioner's state remedy pursuant to U.S.C.S. 28:1257(a) leaving only this high Court, the Supreme Court of the United States, to decide these very important constitutional questions as to United States Constitution, Second Amendment, the right to keep and bear arms also the Fourteenth Amendment and the right to due process thereof, thus indicating the character of the reasons this Court should consider Writ of Certiorari in compliance with Supreme Court Rule 10(c). Therefore petitioner is approaching this Court for Certiorari review to decide these important questions and in the interest of justice Writ of Certiorari should be allowed.

REASONS FOR GRANTING THE WRIT

I. LACK OF DUE PROCESS: NO APPEAL OR JURY TRIAL

Not being a lawyer, the petitioner here argues pro se and says: In conjunction with the important Second Amendment gun issue in this case, another very important issue revolving around Fourteenth Amendment due process

has been discovered as a result of the petitioner's denial of the right to purchase a handgun by NC state statute. In the course of the appeal process of that denial, it was found that the state of North Carolina provides no appeal ability of the denial of a permit to purchase a handgun passed the decision of the chief district judge of the county and according to N.C.G.S. 14-404(b) district judges' decision is "final" and unappealable. *(Find a copy of official documents verifying this in the Appendix of this writ on PAGES VII - XII)*

As surprising as this lack of appeal may sound to this high Court, petitioner firmly believes that this piece of state legislation enacted into law has been used for years as a deterrent to abort civil rights of an untold number of persons thereby preventing them from the lawful purchase and ownership of guns contrary to their Second Amendment rights with no means of appeal other than a very costly venture into the federal jurisdiction on a challenge of this state policy. The chilling effect that this lack of appeal process causes is very far reaching and has, with the petitioner as well as many others, resulted in the abortion of due process rights at the state level to challenge an unjust denial by a sheriff of a permit to purchase a handgun. Terminating appeal rights by limiting same to the immediate decision of a district court judge without jury trial or further state appeal not only chills due process but places a very heavy burden upon the poor to make this Grand Canyon leap from the state district to U.S. federal courts.

In fact, in the petitioner's opinion, this **lack of appeal is so repugnant to the U.S. Constitution due process clause** that it, in and of itself, should be the wedge issue that would put this entire case upon the plate of the U.S. Supreme Court Justices.

II. UNJUST DENIAL OF CONSTITUTIONAL RIGHT

Having addressed the issue of lack of due appeal process petitioner now proceeds with her Petition for Writ of Certiorari based upon the following: Due to the criminal activity in the immediate area of the petitioner's North Carolina residence where her property was burglarized and threats of death were made against her and her family members, such threats in part being carried out when a house that she owned was, determined by local and state officials to have been, destroyed by arson, she was brought to the realization that she needed a gun to protect her interests. Therefore, "she did, pursuant to state statute, apply to the Perquimans County Sheriff's Office for a permit to purchase a handgun for self-defense purposes. On November 16, 2005, she was advised by letter from the sheriff's office" "that your application for the issuance of a firearm purchase permit has been denied. I find that I am unable to issue the permit based on the federal guidelines. It is found that your actions constitute a violation of the provisions set forth in the North Carolina General Statutes for the possession of a handgun permit." This letter of denial was signed by Eric V. Tilley, Sheriff for Perquimans County, North Carolina.

Mrs. Clark, the petitioner in this case, raised upon state appeal *(Find a copy of this document in the APPENDIX of this writ on PAGES XIII - XV.)* and contends that she has done nothing by state or federal standards which would disqualify her from the purchase or ownership of a lawful gun, though such disqualification was indeed implied by Sheriff Tilley's letter of denial. This has been and can be, at anytime current, proven by her ability to pass the instant national background check we[illegible]blished by the federal government. Mrs. Clark further contends that she had good grounds and evidence, well understood throughout the

community and by local and state officials, and also published in local newspapers, that her life, her family's life and property has been and is currently in danger by threats which require lawful, self-defense means for her protection and the protection of her interests via the purchase and possession of a lawful handgun. Moreover she contends that Sheriff Tilley's denial is unwarranted and without basis in law or fact. In her opinion, same denial violates her civil rights constitutionally protected and continues to put in jeopardy her person and her personal property. *(Find in the APPENDIX of this writ on PAGE XVI - XX a copy of the document entitled "GUN PERMIT REQUEST" which was submitted to Mrs. Clark by the sheriff's department in application to her, in her attempt to acquire said handgun purchase permit. Find also on PAGE XXI in the APPENDIX of this writ, a copy of Sheriff Tilley's letter of denial of Mrs. Clark's application by means of that form called "GUN PERMIT REQUEST".)*

Pursuant to North Carolina State Statutes, Article 52A, Section 14-404, Mrs. Clark filed a "Petition For Appeal To Chief District Court Judge Grafton G. Beaman for the County of Perquimans North Carolina" "for appeal from refusal of gun purchase permit," a hearing for that appeal was granted and given in Judge Beaman's court, Hertford, NC at about 9:30 a.m., Tuesday, March 28, 2006. *(Find a copy of this document in the APPENDIX of this writ on PAGES XIII - XV .)*

At that appeal hearing Mrs. Clark represented herself pro se and the sheriff, county and state of North Carolina were represented by county attorney John V. Matthew Jr.

Judge Beaman presided at that hearing without jury and gave his judgment by way of ORDER, May 4, filed May 8, 2006 certified upon county records as civil action 05-CVD-205. *(Find a copy of this document in the APPENDIX of this writ on PAGE II - VI .)*

Petitioner Mrs. Clark and her husband Michael Craig Clark, a person in interest to this case, now seek review by petition to this Court of last resort for Certiorari being the Supreme Court of the United States and having jurisdiction to the issues involved by way of U.S.C.S. 28:1257(a) and due to the fact that she has exhausted all state remedies pursuant to state statutes and presented constitutional and federal questions which only this high Court, as the Court of last resort, can address. The issues and questions raised by petitioner Clark expose the "repugnant" nature displayed by NC State and Perquimans County policies and statutes applied to the petitioner and against her civil rights. The petitioner herein addresses by argument those issues and questions needing this Court's answer and believes that the permit requirement extended to her either directly or indirectly by the respondents both county and/or state in order to obtain a legal handgun is unconstitutional upon its face and in its application to her and in her opinion constitutes **an unconstitutional licensing law that requires a permit which can be granted or withheld at the whim of one individual** and while the Second Amendment of the Constitution guarantees her the right to "keep and bear arms," she alleges it only stands to reason that the lawful means of obtaining such weapons logically carries with it the right to legally purchase same. In quoting Supreme Court Justice Clarence Thomas:

> "The Constitution, in addition to delegating certain enumerated powers to Congress, places whole areas outside the reach of Congress' regulatory authority. The First Amendment, for example, is fittingly celebrated for preventing Congress from "prohibiting the free exercise" of religion or ""abridging the freedom of speech."" The Second Amendment similarly appears to contain an express limitation on the government's authority. That

> Amendment provides: ""[a] well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed."" This Court has not had recent occasion to consider the nature of the substantive right safeguarded by the Second Amendment. If, however, the Second Amendment is read to confer a personal right to ""keep and bear arms,"" a colorable argument exists that the Federal Government's regulatory scheme, at least as it pertains to the purely intrastate sale or possession of firearms, runs afoul of that Amendment's protections." *(Jay Printz, Sheriff / Coroner, Ravalli County, Montana, Petitioner 95-1478 v. United States Richard Mack, Petitioner 95-1503 on writs of certiorari to the U. S. Court of Appeals for the Ninth Circuit, June 27, 1997)*

In further addressing this question of purchase of handguns and petitioner's concerns about the fact that, contrary to other states in which she has resided like the Commonwealth of Virginia, North Carolina requires this type of permit given only upon approval from a local sheriff. Once being notified by the sheriff's office that her application had been denied, she proceeded to prove her legal record and ability to purchase by going to the local Wal-Mart in Elizabeth City, NC and after passing the instant background check, she purchased a shotgun for protecting her interests interim of her appeal to Judge Beaman. After making that purchase and upon firing the weapon, she found the shotgun too big, cumbersome and too powerful for her to handle and was injured when trying to shoot it. She feels, as a small petite 105 pound lady, she should not have to be subjected to such abuse simply because of the personal prejudices shown against her by the local sheriff. When addressing her concerns as to this matter, she so clearly

stated at the state appeal hearing on March 28, 2006, it is her constitutional civil right to purchase and own an appropriate gun for her needs even if it means the purchase of a handgun.

Petitioner Clark feels that the state of North Carolina and their policies requiring special licenses and permits to do an already lawful deed protected by the Second Amendment is not only injurious to her but is a poke in the eye of federal government when it comes to portions of the U.S. Constitution like that of the "Supremacy Clause" addressed by now sitting Supreme Court Justice Anthony Scalia in his delivery of the opinion of the Court on writs of certiorari, June 27, 1997.

> "The dissent perceives a simple answer in that portion of Article VI which requires that ""all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution,"" arguing that by virtue of the Supremacy Clause this makes ""not only the Constitution, but every law enacted by Congress as well,"" binding on state officers, including laws requiring state officer enforcement. Post, at 6. **The Supremacy Clause, however, makes ""'Law of the Land'"" only ""'Laws of the United States which shall be made in Pursuance [of the Constitution]'""** *(Jay Printz, Sheriff/Coroner, Ravalli County, Montana, Petitioner 95-1478 v. United States Richard Mack, Petitioner 95-1503 on writs of certiorari to the U. S. Court of Appeals for the Ninth Circuit, June 27, 1997)*

Moreover petitioner Clark is concerned with other protected civil rights due to the respondents' policies and applications thereof to her. Chief among her concerns is the sheriff's ability to exceed the bounds of federally recognized means of checking one's criminal history and legal ability to

purchase and possess lawful weapons, by venturing into unproven facts and untried allegations when deciding such an important constitutionally protected right of the petitioner as the Second Amendment. She feels the NICS system has been proven adequate, not only in her circumstance to purchase a shotgun, but in the ability to purchase any lawful weapon in some of the other states in which she has resided such as the state of Virginia. One of the points of concern to the petitioner about the sheriff's evaluation of her was not only based upon the NICS check but the fact that **she was required to supply the names of three character witnesses**. This leads her to believe that the sheriff alleges the authority to judge her constitutional rights to a lawfully protected civil liberty by virtue of untried and untested witnesses and evidence which may or may not speak against her when making his determination of the petitioner's qualifications to purchase a handgun. Petitioner feels this stereotypical blacklist violates her civil rights. In fact her concern is that she has, by virtue of such conduct and policy, lost the presumption of innocence guaranteed to every citizen by the Constitution. Due process still starts with that presumption until lawful trial in a court negates it. Certainly such innocence definitely should not be negated subjectively by presumption, innuendos and pure gossip which are known to occur in small communities like Perquimans County, NC. Contrary to Sheriff Tilley's and Judge Beaman's opinions, petitioner Clark still remains innocent and not even a suspect in anything that would lead to her inability to purchase a gun or loss of Second Amendment rights. While she can legally purchase a lawful gun, either long or short in the state of Virginia as long as she is a resident there, she should not have to change her state of legal residency from North Carolina in order to acquire or retain her civil rights. She questions, perhaps the "full faith and credit clause" doesn't mean what it says?

It is the petitioner's understanding that the local CLEOs were to make these subjective haphazard background checks due to the lack of a tried and proven instant national background check. However now that the NICS check has proven adequate for many persons and for many years, where is the need for local officials to depend upon hearsay and untried facts and witnesses possibly based upon gossip when determining constitutionally protected rights.

The petitioner believes that the United States of America can and should do better than regressing to the antiquated methods expressed and shown in North Carolina statutes and Perquimans County policies of determining someone's right to purchase and own a lawful weapon to protect one's self and their interests when needed.

Raised upon state appeal are petitioner Mrs. Clark's concerns as to her protected interests as they reflect on her good moral character being maligned both publicly and upon official county and state records which now can be clearly and reasonably concluded to construe, when viewed, that she has been, at the direction and consequences of respondents' Sheriff Tilley and State of NC actions, put into the category of the criminal and/or mentally incompetent and/or illegal alien and/or military dishonorably discharged and/or domestically violent by Sheriff Tilley's letter of denial to her now recorded upon county and state records. *(Find a copy of this document in the APPENDIX of this writ on PAGE XXI.)*

In furtherance of that reasonable concern on the part of the petitioner, via the above said county and state policies and their application to her, she now bears upon her record, a sheriff's denial to issue her a permit to purchase a handgun, a truth to which she will have to answer on any form or application if asked "have you ever been denied a permit to purchase a gun." In answering truthfully she now, thanks to the unconstitutional law of the state of North Carolina and Perquimans County and the application of same to her,

automatically brings undue suspicion upon herself and her otherwise perfect record. Such suspicion certainly may deny her jobs and/or other privileges in the future.

Petitioner Mrs. Clark has reasonable concern, raised at state appeal, of her constitutional civil rights as to due process of the law when it comes to the criminal allegations made against her under oath before a state district judge by respondent, county Sheriff Tilley, when at her gun permit denial appeal hearing on March 28, 2006, he said Mrs. Clark made threats against him over the phone and that he was not about to issue a handgun permit to anyone that threatens him personally. Mr. Tilley's concerns were over a statement made by Mrs. Clark over the phone to him when she said "Mr. Tilley, we hold you personally responsible for the burning of our property." However Mrs. Clark contends that the record clearly shows that the Clarks were holding Sheriff Tilley accountable indirectly in a civil way when considering a possible lawsuit against him of which she had called also the county manager explaining why the Clarks held Sheriff Tilley responsible and of the anticipated lawsuit in which the county would be named as superior respondent. The Clarks felt injured by Tilley's wanton endangerment due to the fact that he knew of the threats and dangers the members of the Clark family were under and though knowing these things along with the fact that official restraining orders had been issued to protect the Clarks, he failed to reasonably attempt, on one or more occasions, to warn them of pertinent information obtained in the line of his duty of which he was well aware that would, if known by the Clarks, have allowed them reasonable opportunity to protect their lives and their property against the arson that occurred. That same arson occurred shortly after Tilley became aware of these facts of the persons he knew had the motive, intent and opportunity to so do in so much that the sheriff informed the Clarks, after the fire, that he knew who had committed the arson, yet he

refused to properly investigate same or make arrests of the guilty parties. This again showed wanton endangerment to the Clarks by waiting at least three hours before notifying them that their property had been arsoned and of the danger they could be in because of Sheriff Tilley's knowledge and belief as to who had set the fire. [The restraining orders above mentioned with regard to one or more of these suspects were entered and accepted into evidence at the petitioner's state appeal hearing.]

The real attitude in which Sheriff Tilley actually took Mrs. Clark's statement is best expressed by his remarks back to her when he said "Tell your husband if it will make him feel any better he can go plaster the community with flyers," inferring that Mr. Clark's methods in the past have been to do such and rightly so, because Mr. Clark is known to file lawsuits and speak out when he finds it necessary to protect his interests rather than resorting to violence. Keeping in mind that this conversation was BEFORE petitioner Mrs. Clark applied for said permit, it can be seen that Sheriff Tilley was in no way threatened by her remarks but in taking exception to them, decided to act in a vindictive manner by later denying her permit as a 'getting even' tactic. His remarks about assuming a threat were simply to make his denial more plausible to anyone to whom he had to justify his denying Mrs. Clark said permit. However, petitioner points out before leaving this point that if her remarks as a law abiding citizen with a perfect record really makes him feel threatened then he should seriously think about resigning his office and go cower in a corner of his house in light of what is really out there in the community well evidence by the daily newspapers. **These things are here represented to the Court to show just how far things can go when one individual stands in the place of judge, jury and executioner due to this unconstitutional licensing law.**

ADDRESSING JUDGE'S ORDER

Numbered paragraph 7:

"That Michael Craig Clark has a strong influence over Eve Anna Clark, his wife, as evidenced by her conversations with Sheriff Tilley on the telephone and as indicated by her appearance, demeanor and testimony before this Court. That it is clear from the demeanor displayed on this witness stand and at the Petitioner's table that Mrs. Clark looks to her husband for guidance even as to the conduct of the trial of this matter before the Court."

Petitioner responds by saying: 35 years of a picture perfect marriage between the petitioner and her husband speaks for itself. Petitioner and her husband believe that the sanctity of a Bible based union between a man and a woman subjects the woman unto her head, the husband, as he subjects himself unto the Creator that instituted the marriage relationship. Any subjective jealousies or prejudices the sheriff may have to that type of relationship is certainly his problem and not the petitioner's. But objectively that same 35 years of subjection to her husband without criminal misconduct proves that her interests in obtaining a gun were strictly within the law and for lawful purposes contrary to what the ORDER suggests.

In fact the sheriff tried to make issue of the clergy parishioner relationship between petitioner's husband and their best friend of twenty year, Mr. Detmer. However while Mr. Detmer shows great allegiance to Mr. Clark, like Mr. Clark's wife, he has a mind of his own and has never been influenced into a life of crime by the petitioner's husband. In fact Sheriff Tilley issued to Mr. Detmer a handgun permit

knowing the great influence Mr. Clark, as his "rabbi," wheals over Mr. Detmer thus showing Sheriff Tilley's doublemindedness on the issue of influence.

Numbered paragraph 14:

Judge's ORDER cites Sheriff Tilley's reason for not issuing petitioner Mrs. Clark a handgun permit when he says:

> "That the Sheriff was not fully and completely satisfied as to the good moral character of the Petitioner/Applicant,..."
>
> Petitioner contends that her constitutional Second Amendment rights to protect herself with a gun should not be contingent off of the subjective and personal prejudices of one individual. In fact she questions, since when does moral character determine the application of one's constitutional rights? Petitioner contends, even though she is not a lawyer, she sees no place in the laws governing this country that determines civil rights off of one's moral character. In fact, to the contrary it is her understanding that by law we are all created equal with a presumption of innocence until that innocence is removed by due process of the law in a court of law and not by one individual acting as judge, jury and executioner as has occurred in the present case with the sheriff's unjust subjective evaluation of the petitioner.

FEDERAL QUESTION

Additional concerns of the petitioner are relative to U.S.C.S 18:922 and raised in her state appeal. It is her understanding that all information found and used in the check process for a permit to purchase a gun was to be held in official confidence or disposed of. Petitioner raises concern that the respondent county Sheriff Tilley has taken it upon himself to share the particulars of his reason for the denial of petitioner Mrs. Clark's handgun purchase permit with other persons other than those of an official capacity and refused to share them with her before the appeal was filed after many attempts by Mrs. Clark to have him explain his very offensive and accusatory letter indicating that she may have some illegal background when she knew she did not. She was sure that the official records were correct on this matter because she had just passed a NICS check to purchase her shotgun. Petitioner Mrs. Clark feels that this conduct has violated her right of privacy by having this information unofficially banded about the community other than for lawful purposes. She believes such information reasonably can be construed that Mrs. Clark remains unarmed and vulnerable to the criminal misconduct in the community occurring from others that have made threats against the Clark family and same persons remaining suspect to the burning of their property.

Addressing Title 18, and petitioner's question, "is U.S.C.S. 18:922(s)(7) also (7)(B) also (t)(6) also (6)(B) constitutional upon its face and/or in its application to the petitioner in the present case and if so does this same title's sections grant absolute immunity from prosecution to the respondent sheriff without exception and is such immunity constitutional?" Petitioner Clark's concern, not withstanding her question of the constitutionality of the statute and its application to her, is the question of absolute immunity

which possibly empowers with impunity a CLEO to grant and withhold a gun purchase permit. In addressing that concern she herein argues relevant to her petition for Writ of Certiorari and says:

As the petitioner sees it, several very important issues are involved, first of all and probably the most pronounced and obvious is the ability of one individual acting under color and empowered by such legislation to slam the door in the face of a law abiding citizen's ability to exercise a constitutional protected civil liberty, which policy, upon its face, such as U.S.C.S. 18:922 as well as N.C.G.S. 14-404 seem to affirm.

Second to that is the ability of the state to limit the appeal process to the decision of the chief district court state judge without further state appeal process. This creates a very large and costly judicial due process gap insurmountable by the average citizen of the state.

Lastly and not so obvious is the fact that the respondent, Sheriff Tilley, abuses his authoritative position under color of this title as well as under color of state statute in his methods of granting permits to purchase guns to straw persons, he, himself knowing and admitting will end up in the hands of persons legally unauthorized to same by law. The petitioner, like every other law abiding citizen, is and should be concerned of the danger this repugnant conduct threatens which flies in the face of constitutionally protected rights of the petitioner and every other citizen.

Along these same lines petitioner, being directly and indirectly affected, has concerns to the respondent sheriff's discriminatory practices as to race, color and gender when granting and denying the issuance of gun purchase permits as addressed in petitioner's appeal hearing March 28, 2006 when on the witnesses stand the following interrogation and response transpired between the sheriff and Perquimans County Attorney John V. Matthews:

Attorney Matthews:

"Its been stated that you told one or more of these witnesses that young black women come in and ask for a gun that you know is going to be used by someone else and you go ahead and issue them a permit. Have you told anybody that?"

Sheriff Tilley:

"No sir. I have told them that we have had a number of young black females to come into the office and fill out the application, they're unemployed, they don't work, they live in low income housing and I have a way to detour that. I tell them to go to the gun dealership, get the serial number of the gun and bring me the serial number where you're purchasing it and all and that defuses it cause they're never going to do that. They don't do that. They don't come back and bring it back. I don't just give permits to anybody that walks in the door."

Moreover, respondents Sheriff Tilley, Perquimans County and State of North Carolina have a recorded history within the federal jurisdiction of violating constitutionally protected civil rights of the petitioner over the course of the last sixteen years indicative of a pattern.

CONCLUSION

In the interests of justice Writ of Certiorari should be granted in this case in hopes that this unjust method, of misusing the state sovereignty and the "commerce clause" and denial of appeal process, to end run personal civil rights, will be stopped and impress upon the county and the sheriff to quit overstepping their colorable bounds when discriminating against the petitioner by their use of the unconstitutional application for a permit to purchase a handgun and heretical, subjective and/or presumptuous evaluations of the petitioner for gun purchase permit purposes.

Respectfully submitted,

Eve Anna Clark
Petitioner Pro Se
122 Juniper Street
Hertford, NC 27944
Phone: 252-426-7652
Fax: 252-426-7235
Email: eveannaclark@earthlink.net

APPENDIX

Each document represented
may be determined to start and end
with a line of asterisks

****

ORDER OF CHIEF DISTRICT COURT JUSTICE GRAFTON G. BEAMON

****

FILE STAMP (set off by asterisks:)
****
FILED
2006 MAY -8 AM 11:23
PERQUIMANS COUNTY, C.S.C.
BY_____
****

STATE OF NORTH CAROLINA
COUNTY OF PERQUIMANS

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
BEFORE THE CHIEF DISTRICT COURT JUDGE
FILE NUMBER 05-CVD-205

EVE ANNA CLARK (Petitioner)
VS
SHERIFF ERIC V. TILLEY
ALSO **ORDER**
COUNTY OF PERQUIMANS
ALSO
STATE OF NORTH CAROLINA

THIS MATTER was heard by the undersigned Chief District Court Judge of the First Judicial District in Perquimans County District Court in Hertford, North Carolina on March 28, 2006. The Petitioner/Applicant, Eve Anna Clark, appeared Pro Se. Sheriff Eric V. Tilley was

represented by John V. Matthews, Jr., Attorney At Law. No other party appeared nor did the court have jurisdiction over any other party.

FROM THE RECORD, TESTIMONY AND EXHIBITS PRESENTED TO THE COURT, THE COURT FINDS AS FACTS:

1. That this matter is an appeal pursuant to N.C. Gen. Stat. 14-404 from the decision of the Sheriff of Perquimans County denying Eve Anna Clark's application for a permit to purchase a hand gun.
2. That on November 15, 2005, Eve Anna Clark submitted to the Sheriff of Perquimans County an application for a permit to purchase a handgun.
3. That on November 16, 2005, Eric V. Tilley, Sheriff of Perquimans County, sent a letter to Eve Anna Clark stating that her application for a permit to purchase a handgun had been denied and that she could appeal this decision to the District Court Judge of the First Judicial District.
4. That Eve Anna Clark and her husband, Michael Craig Clark, live at 122 Juniper Street, Hertford, North Carolina, which is located in the Snug Harbor subdivision of Perquimans County.
5. That Eve Anna Clark in her application claimed self-defense as the purpose for applying for a permit to purchase a handgun.
6. That in her application for a permit to purchase a handgun, Eve Anna Clark named three persons who could verify her character and reputation. One of these persons was Michael Craig Clark, her husband, who is a convicted felon, having been convicted of kidnapping. Another person is Paul M. Detmer, who is a follower and admirer of

Michael Craig Clark, whom Mr. Detmer calls "Rabbi".

7. That Michael Craig Clark has a strong influence over Eve Anna Clark, his wife, as evidenced by her conversations with Sheriff Tilley on the telephone and as indicated by her appearance, demeanor and testimony before this Court. That it is clear from the demeanor displayed on this witness stand and at the Petitioner's table that Mrs. Clark looks to her husband for guidance even as to the conduct of the trial of this matter before the Court.

8. That at the time the application was made by Eve Anna Clark for a permit to purchase a handgun, the Sheriff of Perquimans County was informed that she was living with a convicted felon who had great influence over her and that she and her husband were in a dispute with other residents in the Snug Harbor subdivision; that the Sheriff was of the opinion that the situation was unstable and that placing a handgun with Mrs. Clark would in effect be giving a firearm to Mr. Clark who by law could not possess a firearm.

9. That during the week of November 7, 2005 the Sheriff received a call from Mrs. Clark asking about an investigation in which a mobile home she owned, but did not occupy, had been burned; that Mrs. Clark informed the Sheriff that the Clarks (she and her husband) were holding him "personally responsible" for the safety and welfare of their lives and property; and because of the nature, tone and manner that this statement was made that the Sheriff took this communication as a personal threat to his own safety.

10. That the Sheriff had an opinion satisfactorily to himself that under the facts known to him at the time the application was made that Mrs. Clark's permit to purchase a handgun should be denied not only because of the volatile situation and instability in the subdivision but for his own personal safety and well-being.

11. That Mrs. Clark stands by her husband 100 percent by her own admission and she personally blames Sheriff Tilley for the burning of her home, which was the residence of her son and not her place of residence.

12. That Mrs. Clark already possesses a pistol and a shotgun in her residence.

13. That the Sheriff has also denied a request to purchase a handgun by one of the other persons involved in the dispute with the Clarks because of the volatility of the situation.

14. That the Sheriff was not fully and completely satisfied as to the good moral character of the Petitioner/Applicant, and was concerned that he would be placing a gun within a volatile situation.

15. That the Sheriff, for good cause, and acting within his sound discretion based upon all the above factors, declined to issue the permit to Mrs. Clark.

16. That the actions of the Sheriff were reasonable and not an abuse of his discretion.

FROM THE FOREGOING FINDINGS OF FACT, THE COURT CONCLUDES AS A MATTER OF LAW:

1. That Sheriff Eric V. Tilley had good cause to decline to issue Eve Anna Clark the Petitioner/Applicant, a permit to purchase a handgun.
2. That the Sheriff had a reasonable basis for his refusal of a permit.
3. That the decision of the denial by the Sheriff was justified under law in that placing a handgun in the possession of Eve Anna Clark and therefore in her residence would present a credible threat to the physical safety of the Sheriff and to others in the community.

WHEREUPON IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the decision of the Sheriff of Perquimans County denying the Petitioner's application for a permit to purchase a handgun is affirmed.

Entered this the 4th day of May, 2006.

"s/Grafton G. Beaman"
Grafton G. Beaman
Chief District Court Judge

****

PETITIONER'S MAY 10, 2006
NOTICE OF APPEAL OF
DISTRICT JUDGE'S MAY 4, 2006 ORDER

[It should be noted that it was always petitioner's understanding since speaking with the Attorney General's Office for the state of NC, that there was no further remedy past the Chief District Court Judge's decision. However due to the U.S. Supreme Court Clerk's inability to accept the concept that such decision was the final step in NC remedy, this NOTICE OF APPEAL to the NC State Court of Appeals was filed as a precautionary move by the petitioner in order to mandate a written response from NC officials verifying the finality of said Chief District Court Judge's decision pursuant to NC Gen. Stat. 14-404(b). Therefore this NOTICE OF APPEAL to the NC State Court of Appeals should be considered in conjunction with the two official responses given immediately after same below.]

****

FILE STAMP (set off by asterisks:)
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FILED
2006 MAY 10 PM 12:20
PERQUIMANS COUNTY, C.S.C.
BY_____
****

IN THE
GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
CHIEF JUSTICE GRAFTON G. BEAMON
STATE OF NORTH CAROLINA
COUNTY OF PERQUIMANS

CASE NO. 05 - CVD - 205

EVE ANNA CLARK
(Petitioner)
v.
SHERIFF ERIC V. TILLEY
Also
COUNTY OF PERQUIMANS
Also
STATE OF NORTH CAROLINA

Notice Of Appeal To The N.C. State Court of Appeals
[Pursuant To N.C.G.S. 7A-27(c)]

Pursuant to N.C.G.S. 7A-27(c), petitioner Eve Anna Clark herewith gives NOTICE OF APPEAL to North Carolina State Court of Appeals of ORDER in the present case rendered by Chief District Judge Grafton G. Beaman on May 4, 2006 and filed in the Perquimans County Courthouse on May 8, 2006.

This NOTICE OF APPEAL was prepared pro se by the petitioner.

Solemnly affirmed and respectfully submitted this 10th day of May, 2006.

"s/Eve Anna Clark"
Eve Anna Clark
Petitioner Pro Se
122 Juniper Street
Hertford, NC 27944
Phone:252-426-7652

****

MAY 15, 2006 RESPONSE BY LEGAL COUNSEL FOR ADMINISTRATIVE OFFICE OF THE COURTS CONCERNING POSSIBLE FURTHER APPEAL FROM DISTRICT COURT JUDGE'S DECISION

****

[THE GREAT SEAL of the
STATE of NORTH CAROLINA]

ADMINISTRATIVE OFFICE OF THE COURTS
JUSTICE BUILDING
PO BOX 2448 * RALEIGH, NC 27602
PHONE: (919) 733-7107
FAX: (919) 733-1845

RALPH A. WALKER
DIRECTOR

PETER E. POWELL
LEGAL COUNSEL

DAVID F. HOKE
ASSISTANT DIRECTOR

May 15, 2006

Ms. Eve Clark
122 Juniper Street
Hertford, NC 27944

Dear Ms. Clark,

By letter dated May 8, 2006, you sought information from the Administrative Office of the Courts on the handling of appeals from the denial of handgun permits. Your letter has been forwarded to me for response.

Please note the Administrative Office of the Courts provides administrative support for our court system. We have no authority to review the administrative decisions of sheriffs, or the judicial decisions of our courts or the courts

of any other state. Furthermore, we do not have the authority or responsibility to analyze the legal rights and remedies of private citizens or to give them legal advice.

Nevertheless, upon receipt of your inquiry, I contacted the Office of the N.C. Attorney General, Law Enforcement Liaison Section, to inquire as to their interpretation of G.S. 14-404(b). As you know, this statute provides that the decision of a sheriff to deny a handgun permit may be appealed to District Court, but that the subsequent decision of the District Court is final. The Attorney General's office informed me that "final" means just what it says, and that there is no appeal from the order of the District Court.

I hope this gives you some guidance regarding the concerns you raised in your letter to us. And all further questions you may have should be directed to an attorney.

Very truly yours,
"s/Peter E. Powell"
Peter E. Powell

****

MAY 16, 2006 RESPONSE BY CLERK OF SUPERIOR COURT CONCERNING POSSIBLE FURTHER APPEAL FROM DISTRICT COURT JUDGE'S DECISION

****

[THE GREAT SEAL of the
STATE of NORTH CAROLINA]

State of North Carolina
General Court of Justice

CLERK OF SUPERIOR COURT
PERQUIMANS COUNTY
P.O. BOX 33
HERTFORD, NC 27944

TODD W. TILLEY, CLERK
EX OFFICIO JUDGE OF PROBATE

J. RICHARD PARKER
SENIOR RESIDENT JUDGE

MAY 16, 2006

Mrs. Eve Anna Clark
122 Juniper Street
Hertford, NC 27944

Re: Clark v. Tilley et al
Perquimans County File 05-CVD-205

Dear Mrs. Clark,

I am in receipt of your letter dated May 15, 2006 in regards to the appeal status of the referenced matter.

Being an officer of the Court, I am not in the position to give you legal advice on any matter pending before the Court. However, I will tell you that it is my understanding that the NC Attorney General's Office is under the opinion that the Order of the Chief District Court Judge in this matter

is final and not subject to appeal. Again, this is my understanding and not an official interpretation of the law.

If I may be of any further assistance, please do not hesitate to contact me.

Sincerely,
"s/Todd W. Tilley"
Todd W. Tilley
Clerk of Superior Court

****

PETITION FOR APPEAL FROM SHERRIF'S DENIAL OF PERMIT TO PURCHASE HANDGUN FILED IN STATE COURT OF LAST RESORT PURSUANT TO NC STATE STATUE 14:404(b)

****

FILE STAMP (set off by asterisks:)
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FILED
2005 DEC -7 PM 3: 57
PERQUIMANS COUNTY, C.S.C.
BY_____
****

IN THE
GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
CHIEF JUSTICE GRAFTON G. BEAMON
STATE OF NORTH CAROLINA
COUNTY OF PERQUIMANS

CASE NO. 05 - CVD - 205

EVE ANNA CLARK
(Petitioner)
v.
SHERIFF ERIC V. TILLEY
Also
COUNTY OF PERQUIMANS
Also
STATE OF NORTH CAROLINA

PETITION FOR APPEAL
(Pursuant to NC Statute, Article 52A, Section 14-404)

Petitioner Eve Anna Clark of 122 Juniper Street, Hertford, NC 27944, herewith moves the present court for appeal hearing pursuant to NC Statute, Article 52A, Section 14-404 based upon the fact that she did, pursuant to state statute, apply to the Perquimans County sheriff's office for a permit to purchase a handgun for self-defense purposes and on November 16, 2005, was advised by letter from the sheriff's office ***"that your application for the issuance of a firearm purchase permit has been denied. I find that I am unable to issue the permit based on the federal guidelines. It is found that your actions constitute a violation of the provisions set forth in the North Carolina General Statutes for the possession of a handgun permit."*** and signed by Eric V. Tilley, Sheriff for Perquimans County North Carolina.

Mrs. Clark contends that she has done nothing by state or federal standards which would disqualify her from the purchase or ownership of a lawful gun. This has been and can, at anytime current, be proven by her ability to pass the national background check recently established by the federal government. Mrs. Clark also contends that she has good grounds and evidence well understood by local officials and published in local newspapers that her life and property has been and is currently in danger by threats which require lawful, self-defense means for her protection via the purchase and possession of a lawful handgun. Mrs. Clark further contends that Sheriff Tilley's denial is unwarranted and without basis in law or fact and moreover same denial continues to put in jeopardy her person and her property.

In the interest of justice and according to North Carolina Statute Eve Anna Clark thus petitions the present court,

being proper and as required by law, to hear this current appeal in this matter. In addition, petitioner requests an expedient hearing in this matter due to her vulnerable circumstances herein outlined.

Solemnly affirmed and respectfully submitted this 7th day of December, 2005

"s/Eve Anna Clark"

Eve Anna Clark
Petitioner Pro Se
122 Juniper Street
Hertford, NC 27944
Phone: 252-426-7652

****

"GUN PERMIT REQUEST"

(Side One)

****

GUN PERMIT REQUEST

I am requesting the Sheriff of Perquimans County to issue me a permit to purchase a handgun for the purpose of _____.

Name: _____

Address: _____

Date of Birth: ____ Age: ____ Sex: ____ Race: ____

Social Security Number: _____ NCDL#_____

Phone Number: _____

Employed: Yes _____ No _____

Have you live in Perquimans County for a least 6 months?
Yes _____ No _____
If No - Where did you live before: _____

Employer's Name & Address: _____

_____

Have you ever suffered a mental disorder? _____, OR been confined in a mental health institution? _____ If YES, explain: _____

Please give the names of three people who are acquainted with you and who would be able to verify your character and reputation.

1. _____ Telephone : _____

2. _____ Telephone: _____

3. _____ Telephone: _____

Your Signature: _____ Date: _____

***********For Office Use Only***********

Permit Issued:_____ **Permit Denied:**_____

NTN# _____ ******Complete Reverse Side******

****

"GUN PERMIT REQUEST"

(Side Two)

****

SUPPLEMENTARY QUESTIONS FOR APPLICANTS FOR A PERMIT TO PURCHASE A HANDGUN

Prohibition applicable to certain aliens. Federal law makes it unlawful for aliens who are illegally or unlawfully in the United States to receive or possess firearms. In addition, subject to certain exemptions, aliens who are in a non-immigrant status are prohibited from possessing or receiving firearms in the United States.

A non-immigrant alien is not subject to this prohibition if the alien:

1) is in possession of a valid hunting license or permit lawfully issued in the United States;
2) is an official representative of a foreign government who is accredited to the United States Government or his or her government's mission to an international organization having its headquarters in the United States; or
3) has received a waiver from the prohibition from the Attorney General of the United States.

See 18 USC 922(y)(2) for additional exceptions. In order to determine whether applicants who are not U.S. citizens are prohibited from possessing firearms under Federal law, it is necessary to obtain answers to the following questions.

1) Name: _____

2) Are you a citizen of the United States? [] Yes [] No

If the answer to Question 2 is "yes", these is no need to answer questions 3-8. Go directly to the certification statement in question 9.
Sheriff: If the answer to Question 2 is "yes", use C in the Citizenship (CTZ) field of the QN or QNP transaction form.

3) What is your country of citizenship? List more than one if applicable.

_____

4) What is your place of birth? _____
(City and country)

5) What is your INS-issued alien number of admission number?_____

6) Are you an alien illegally in the United States? ____

7) Are you a non-immigrant alien? _____

Sheriff: If the answer to Question 7 is "yes", use "N" in the Citizenship (CTZ) field. If the answer to Question 7 is "no", use "F" in the Citizenship (CTZ) field of the QN or QNP transaction form.

8a) Do you fall within any of the exemptions to the nonimmigrant alien prohibitions set forth in 18 USC 922(y)?

8b) If you answered "yes" to question 8a, under which exemption do you fall? Please attach documentation to support your entitlement to the claimed exemption, if applicable.

Sheriff: If the answer to Question 8a is "yes", indicate the exemption indicated in 8b in the Exception Documentation (EXC) field of the QN or QNP transaction form.

9) I certify that the above answers are true and correct.

_____ _____

Applicant's Signature Date

****

"LETTER OF DENIAL"

****

[sheriff seal] *[state seal]*

Perquimans County Sheriff's Office
P.O. Box 31
Hertford, NC 27944

Sheriff Eric V. Tilley Phone
(252) 426-5615

November 16, 2005

Eva Anna Clark
122 Juniper St
Hertford, NC 27944

Dear Mrs. Clark,

This letter is to advise you that your application for the issuance of a firearm purchase permit has been denied. I find that I am unable to issue the permit based on the Federal guidelines. It is found that your actions constitute a violation of the provisions set forth in the North Carolina General Statutes for the possession of a handgun permit.

You may appeal this denial by petitioning a district court judge of the district in which you reside.

Sincerely,

"s/Eric V. Tilley"

Eric V. Tilley
Sheriff

****

CONSTITUTIONAL REFERENCES

U.S. Constitution, First Amendment

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

U.S. Constitution, Second Amendment

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

U.S. Constitution, Fourth Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. Constitution, Fifth Amendment

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

U.S. Constitution, Sixth Amendment

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

U.S. Constitution, Seventh Amendment

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

U.S. Constitution, Eighth Amendment

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

U.S. Constitution, Fourteenth Amendment, Section 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. Constitution, Article I, Section 8
(Commerce Clause)

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States; To borrow Money on the credit of the United States; To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes; ...

U.S. Constitution, Article IV, Sections 1 and 2
(Full Faith and Credit Clause)

Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States. ...

U.S. Constitution, Article VI
(Supremacy Clause)

... This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

U.S.C.S. 18:922(s)(7) also (7)(B) also (t)(6) also (6)(B)

(s)(7) also (7)(B)

A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages—

(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or

(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

(t)(6) also (6)(B)

Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages—

(A) for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section; or

(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a firearm.

U.S.C.S. 28:1257(a)

Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

U.S.C.S. 42:1983

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

North Carolina General Statutes,
Article 52A § 14-402 through 14-405

Article 52A.

Sale of Weapons in Certain Counties.

§ 14-402. Sale of certain weapons without permit forbidden.

(a) It is unlawful for any person, firm, or corporation in this State to sell, give away, or transfer, or to purchase or receive, at any place within this State from any other place within or without the State any pistol or crossbow unless: (i) a license or permit is first obtained under this Article by the purchaser or receiver from the sheriff of the county in which the purchaser or receiver resides; or (ii) a valid North Carolina concealed handgun permit is held under Article 54B of this Chapter by the purchaser or receiver who must be a resident of the State at the time of the purchase.

It is unlawful for any person or persons to receive from any postmaster, postal clerk, employee in the parcel post department, rural mail carrier, express agent or employee, railroad agent or employee within the State of North Carolina any pistol or crossbow without having in his or their possession and without exhibiting at the time of the delivery of the same and to the person delivering the same the permit from the sheriff as provided in G.S. 14-403. Any person violating the provisions of this section is guilty of a Class 2 misdemeanor.

(b) This section does not apply to an antique firearm or an historic edged weapon.

(c) The following definitions apply in this section:

(1) Antique firearm. – Defined in G.S. 14-409.11.

(2) Bolt. – A projectile made to be discharged from a crossbow. The bolt differs from an

arrow in that the bolt is heavier and shorter than an arrow.

(3) Crossbow. – A mechanical device consisting of, but not limited to, strings, cables, and prods transversely mounted on either a shoulder or hand-held stock. This device is mechanically held at full or partial draw and released by a trigger or similar mechanism that is incorporated into a stock or handle. When operated, the crossbow discharges a projectile known as a bolt.

(4) Historic edged weapon. – Defined in G.S. 14-409.12. (1919, c. 197, s. 1; C.S., s. 5106; 1923, c. 106; 1947, c. 781; 1959, c. 1073, s. 2; 1971, c. 133, s. 2; 1979, c. 895, ss. 1, 2; 1993, c. 287, s. 1; c. 539, s. 284; 1994, Ex. Sess., c. 24, s. 14(c); 2004-183, s. 1; 2004-203, s. 1.)

§ 14-403. Permit issued by sheriff; form of permit; expiration of permit.

The sheriffs of any and all counties of this State shall issue to any person, firm, or corporation in any county a license or permit to purchase or receive any weapon mentioned in this Article from any person, firm, or corporation offering to sell or dispose of the weapon. The license or permit shall expire five years from the date of issuance. The license or permit shall be in the following form:

North Carolina,

_____ County.

I, _____, Sheriff of said County, do hereby certify that I have conducted a criminal background check of the applicant, _____ whose place of residence is _____ in _____ (or) in _____ Township, _____ County, North Carolina, and have received no information to indicate that it would be a violation of State or federal law for the applicant to purchase, transfer, receive, or possess a handgun. The applicant has further satisfied me as to his, her (or) their good moral character. Therefore, a license or permit is issued to _____ to purchase one pistol from any person, firm or corporation authorized to dispose of the same.

This license or permit expires five years from its date of issuance.

This ____ day of _____, _____.

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Sheriff.

(1919, c. 197, s. 2; C.S., s. 5107; 1959, c. 1073, s. 2; 1981 (Reg. Sess., 1982), c. 1395, s. 3; 1995, c. 487, s. 1; 1999-456, s. 59.

§ 14-404. Issuance or refusal of permit; appeal from refusal; grounds for refusal; sheriff's fee.

(a) Upon application, the sheriff shall issue the license or permit to a resident of that county unless the purpose of the permit is for collecting, in which case a sheriff can issue a permit to a nonresident when the sheriff has done all of the following:

(1) Verified by a criminal history background investigation that it is not a violation of State or federal law for the applicant to purchase, transfer, receive, or possess a handgun. The sheriff shall determine the criminal history of any applicant by accessing computerized criminal history records as maintained by the State Bureau of Investigation and the Federal Bureau of Investigation, by conducting a national criminal history records check, and by conducting a criminal history check through the Administrative Office of the Courts.

(2) Fully satisfied himself or herself by affidavits, oral evidence, or otherwise, as to the good moral character of the applicant.

(3) Fully satisfied himself or herself that the applicant desires the possession of the weapon mentioned for (i) the protection of the home, business, person, family or property, (ii) target shooting, (iii) collecting, or (iv) hunting.

(b) If the sheriff is not fully satisfied, the sheriff may, for good cause shown, decline to issue the license or permit and shall provide to the applicant within seven days of the refusal a written statement of the reason(s) for the refusal.

An appeal from the refusal shall lie by way of petition to the chief judge of the district court for the district in which the application was filed. The determination by the court, on appeal, shall be upon the facts, the law, and the reasonableness of the sheriff's refusal, and shall be final.

(c) A permit may not be issued to the following persons:

(1) One who is under an indictment or information for or has been convicted in any state, or in any court of the United States, of a felony (other than an offense pertaining to antitrust violations, unfair trade practices, or restraints of trade). However, a person who has been convicted of a felony in a court of any state or in a court of the United States and who is later pardoned may obtain a permit, if the purchase or receipt of a pistol or crossbow permitted in this Article does not violate a condition of the pardon.

(2) One who is a fugitive from justice.

(3) One who is an unlawful user of or addicted to marijuana or any depressant, stimulant, or narcotic drug (as defined in 21 U.S.C. section 802).

(4) One who has been adjudicated mentally incompetent or has been committed to any mental institution.

(5) One who is an alien illegally or unlawfully in the United States.

(6) One who has been discharged from the armed forces under dishonorable conditions.

(7) One who, having been a citizen of the United States, has renounced his or her citizenship.

(8) One who is subject to a court order that:

a. Was issued after a hearing of which the person received actual notice, and at which the person had an opportunity to participate;

b. Restrains the person from harassing, stalking, or threatening an intimate partner of the person or child of the intimate partner of the person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

c. Includes a finding that the person represents a credible threat to the physical safety of the intimate partner or child; or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury.

(d) Nothing in this Article shall apply to officers authorized by law to carry firearms if the officers identify themselves to the vendor or donor as being officers authorized by law to carry firearms and state that the purpose for the purchase of the firearms is directly related to the law officers' official duties.

(e) The sheriff shall charge for the sheriff's services upon issuing the license or permit a fee of five dollars ($5.00).

(f) Each applicant for a license or permit shall be informed by the sheriff within 30 days of the date of the application whether the license or permit will be granted or denied and, if granted, the license or permit shall be immediately issued to the applicant. (1919, c. 197, s. 3; C.S., s. 5108; 1959, c. 1073, s. 2; 1969, c. 73; 1981 (Reg. Sess., 1982), c. 1395, s. 1; 1987, c. 518, s. 1; 1995, c. 487, s. 2.)

§ 14-405. Record of permits kept by sheriff.

The sheriff shall keep a book, to be provided by the board of commissioners of each county, in which he shall keep a record of all licenses or permits issued under this article, including the name, date, place of residence, age, former place of residence, etc., of each such person, firm, or corporation to whom or which a license or permit is issued. (1919, c. 197, s. 4; C.S., s. 5109; 1959, c. 1073, s. 2.)